

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JABRIL AHMED MUHAMMED,

Defendant-Appellant.

UNPUBLISHED

November 25, 2014

No. 317775

Genesee Circuit Court

LC No. 13-033053-FH

Before: O'CONNELL, P.J., and CAVANAGH and FORT HOOD, JJ.

PER CURIAM.

Defendant appeals as of right his jury conviction of resisting or obstructing a police officer, MCL 750.81d(1). We affirm.

On July 16, 2011, after 2:00 a.m., two police officers observed vehicles rapidly decelerate to avoid hitting defendant, who was walking across a road. One of the officers followed defendant on foot to issue him a citation for impeding traffic. When the officer was within five or six feet of defendant, in a well-lit parking lot, he instructed defendant to stop and identified himself as a police officer. He was in full uniform. After defendant turned around and looked at the officer, he proceeded to walk away. The officer then grabbed defendant's left wrist to get his attention, and defendant quickly turned around, grabbed the officer, and pushed him away. The officer wrestled defendant to the ground and, because defendant continued struggle, the second officer assisted in placing defendant in handcuffs.

On appeal, defendant argues that the jury verdict was against the great weight of the evidence and, in the alternative, insufficient evidence supported his conviction. We disagree.

A verdict is against the great weight of the evidence when the evidence preponderates so heavily against the verdict that it would be a miscarriage of justice to allow the verdict to stand. *People v Lemmon*, 456 Mich 625, 642; 576 NW2d 129 (1998) (citation omitted). Defendant did not raise this issue in a motion for a new trial; therefore, our review is for plain error affecting his substantial rights. See *People v Cameron*, 291 Mich App 599, 617-618; 806 NW2d 371 (2011); *People v Musser*, 259 Mich App 215, 218; 673 NW2d 800 (2003).

We review de novo a challenge to the sufficiency of the evidence. *People v Meissner*, 294 Mich App 438, 452; 812 NW2d 37 (2011). The evidence is viewed in the light most favorable to the prosecution to determine whether a rational trier of fact could have found the

essential elements of the crime were proven beyond a reasonable doubt. *Id.* We will not interfere with the factfinder's role of determining the weight of evidence or the credibility of witnesses. *People v Eisen*, 296 Mich App 326, 331; 820 NW2d 229 (2012) (citation omitted).

To prove a charge of obstructing or resisting a police officer, the prosecution must show: “(1) the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered a police officer, and (2) the defendant knew or had reason to know that the person that the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered was a police officer performing his or her duties.” *People v Corr*, 287 Mich App 499, 503; 788 NW2d 860 (2010), quoting MCL 750.81d(1). To “obstruct” means to use physical interference or force or to knowingly fail to comply with a lawful command. MCL 750.81d(7)(a).

Defendant appears to argue that there was no evidence to establish he knew a police officer was touching him when he turned and pushed that person back. In determining whether a defendant “had reason to know” that he was obstructing or resisting a police officer, the jury reviews the facts and circumstance for indications that the defendant had “reasonable cause to believe” the person was a police officer. *Corr*, 287 Mich App at 504, quoting *People v Nichols*, 262 Mich App 408, 414; 686 NW2d 502 (2004). Here, according to the record evidence, the officer was close to defendant, in a well-lit area, in full police uniform, identified himself as a police officer, and instructed defendant to stop. Defendant turned around, looked directly at the officer, and then turned and walked away. When the officer attempted to physically stop defendant from leaving, defendant resisted the officer in such a manner that another officer had to intervene. The jury’s clear conclusion that defendant had “had reason to know” he was obstructing or resisting a police officer was not against the great weight of the evidence and defendant did not establish plain error affecting his substantial rights. Further, viewing this evidence in the light most favorable to the prosecution, the jury could conclude beyond a reasonable doubt that defendant committed the offense of obstructing or resisting a police officer. See *Meissner*, 294 Mich App at 452.

Affirmed.

/s/ Peter D. O’Connell
/s/ Mark J. Cavanagh
/s/ Karen M. Fort Hood